

REMARKS

Claims 1-16 are the claims currently pending in the present Application.

Applicant's Statement of Substance of Interview

Applicant thanks the Examiner for the opportunity of a telephone interview conducted on May 12, 2005. During the interview, Applicant pointed out that Ross and the other cited references do not disclose acquiring an additional image of the same biometrics of the user when the authentication by the verification of the biometrics results in failure, as required by independent claim 1. Applicant requested that the Examiner cite the alleged portion of Ross where such features are taught. The Examiner stated that he will further study the matter upon receipt of a written submission responsive to the Office Action. The foregoing will serve as Applicant's Statement of the Substance of the Examiner Interview.

Rejection of Claims 1, 6, 7, 9, 10 and 15 under 35 U.S.C. § 103

Claims 1, 6, 7, 9, 10 and 15 are rejected under 35 U.S.C. § 103 as being obvious from Ross, U.S. Patent No. 6,195,477 in view of Srey et al., U.S. Patent No. 6,141,436 and Price-Frances, U.S. Patent No. 5,815,252. This rejection is traversed.

Among the problems recognized and solved by Applicant's claimed invention is that of authenticating a user when the verification of the biometrics data obtained from the user results in failure, without incurring the additional processing overhead and resource costs entailed in using multiple sources of biometrics data. By way of illustrative example and not by way of limitation, according to an aspect of the

invention, if authentication of the user based on a fingerprint image fails, fingerprint image data are retained and the user is authenticated using substitute authentication, such as a password entered by the user. Accordingly, the substitute authentication may be safer, since biometric data from the failed authentication is retained for future reference by which to identify a user. According to an aspect of Applicant's claimed invention, when the verification of the biometrics data obtained from the user results in failure, the digital data obtained is stored and substitute authentication is used to authenticate the user.

Ross discloses a fingerprint data verification system and method in which multiple scans may be used to obtain data sufficient to verify whether a fingerprint data from a user matches the stored fingerprint data maintained in a database (Ross, Abstract), such that statistical representation is acquired through repeated detection and statistical analysis of the applied fingerprint (Ross, column 2, lines 22-25). Ross discloses that if no initial match is established based on a scan of the finger, a counter is incremented to track the number of unsuccessful matches, and if the number of unsuccessful matches falls within a tolerable limit, then the user is directed to reapply the finger for another scan, at step 66 (Ross, column 5, lines 13-27); and, that when the feature vector comparison is satisfactory based on the repeated scans, an access signal is transmitted to grant access to the individual user (Ross, column 5, lines 52-55).

Ross does not disclose or suggest acquiring an additional image of the same biometrics of the user when the authentication by the verification of the biometrics results in failure, as *inter alia*, required by independent claims 1 and 9. As discussed, Ross is directed to the repeated scanning of a finger to obtain sufficient information to make a

verification determination but does not disclose or suggest handling authentication of the user when the verification of the biometrics results in failure.

Since Ross does not disclose or suggest this feature, Ross is incapable of disclosing or suggesting storing the digital data obtained when the authentication by the verification of the biometrics results in failure, as further required by independent claims 1 and 9. Further, Ross is incapable of disclosing or suggesting performing substitute authentication based on data other than the data acquired by the acquisition means, when the authentication by the verification of the biometrics results in failure, as *inter alia*, required by independent claims 1 and 9.

Price-Francis and Srey do not remedy the deficiencies of Ross as they relate to Applicant's invention as claimed in independent claims 1 and 9. Price-Francis discloses a biometric identification process and system utilizing multiple parameter scans for reduction of false negatives (Price-Francis, Abstract). Price-Francis discloses that multiple physical characteristics, such as fingerprints, are encoded on a storage medium, such as a user's magnetic card presented to a verification system; and that additional biometric data representing a different physical characteristic are extracted from the user and stored by the storage medium. (Col. 3, lines 54-58).

Price-Francis does not disclose or suggest when authentication based on biometrics results in failure, storing the digital data converted from the biometrics data. Since Price-Francis does not disclose or suggest this feature, Price-Francis is incapable of disclosing or suggesting performing substitute authentication based on other data when authentication based on biometrics results in failure and storing the digital data converted from the biometrics data.

Srey discloses a portable communication device having a fingerprint identification system, in which fingerprint data is stored and used by a law enforcement agency to find a person who illegally used a device requiring input of the user's fingerprint. Srey does not disclose or suggest acquiring an additional image of the same biometric of the user for generating biometrics data. Therefore, even taken together as a whole in combination, Ross, Price-Frances and Srey do not disclose or suggest the recitations of independent claims 1 in 9.

In fact, the cited references belong to the prior art recognized by Applicant's disclosure, because the cited references do not disclose or suggest the above-identified problems recognized and solved by Applicant's disclosure. Therefore, the cited references do not even remotely disclose or suggest Applicant's claimed invention.

Moreover, it is respectfully submitted that there would have been no suggestion or motivation for Applicant's claimed invention based on the cited art. The Examiner suggests that the motivation would have been that combining the references would provide a higher level of security and enhance accuracy. The Examiner, however, provides no explanation of how the general teachings cited by the Examiner related to this field of technology, namely the desirability of "providing a higher level of security" or "enhancing accuracy" would have motivated a person of ordinary skill in the art for Applicant's invention as claimed. Accordingly, Applicant respectfully submits that Applicant's claimed invention would not have been obvious to a person of ordinary skill in the art based on the cited references without resort to impermissible hindsight reconstruction using the Applicant's own disclosure.

Claims 6 and 7 depend from independent claim 1, and claims 10 and 15 depend from independent claim 9. Thus, claims 6, 7, 10 and 15 incorporate novel and nonobvious features of their respective base claims and are patentably distinguishable over the prior art for at least the reasons that their respective base claims are patentably distinguishable over the prior art. Therefore, this rejection should now be withdrawn.

Rejection of Claims 2 and 11 under 35 U.S.C. § 103

Claims 2 and 11 are rejected under 35 U.S.C. § 103 as being obvious from Ross, Price-Frances and Srey in view of Ort, U.S. Patent No. 5,799,098. This rejection is traversed.

Ort does not remedy the deficiencies of Ross, Price-Frances and Srey with respect to independent claims 1 in 9. Claims 2 and 11 depend from independent claims 1 and 9, respectively, and thus incorporate novel and nonobvious features thereof. Accordingly, claims 2 and 11 are patentably distinguishable over the prior art for at least the reasons that their respective base claims are patentably distinguishable over the prior art. Therefore, this rejection should now be withdrawn.

Rejection of Claims 8 and 16 under 35 U.S.C. § 103

Claims 8 and 16 are rejected under 35 U.S.C. § 103 as being obvious from Ross, Price-Frances and Srey in view of Slocum et al., U.S. Patent No. 6,430,306. This rejection is traversed.

Slocum does not remedy the deficiencies of Ross, Price-Frances and Srey with respect to independent claims 1 in 9. Claims 8 and 16 depend from independent

claims 1 and 9, respectively, and thus incorporate novel and nonobvious features thereof. Accordingly, claims 8 and 16 are patentably distinguishable over the prior art for at least the reasons that their respective base claims are patentably distinguishable over the prior art. Therefore, this rejection should now be withdrawn.

In view of the foregoing discussion, the claims pending in the Application are now believed to be allowable and therefore the Examiner is respectfully requested to allow the Application at this time. Should the Examiner have any questions about this Amendment, or about the Application generally, the Examiner is invited to telephone the undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George Brieger". The signature is fluid and cursive, with the first and last names being clearly legible.

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